

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

PAUL SEAN GAFFNEY, #759646	§	
VS.	§	CIVIL ACTION NO. 6:18cv370
DIRECTOR, TDCJ-CID	§	

ORDER OF DISMISSAL

Petitioner Paul Gaffney, a state prisoner confined at the Clements Unit within the Texas Department of Criminal Justice (TDCJ) proceeding *pro se*, filed this federal petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging two disciplinary proceedings that occurred at the Beto Unit. The petition was referred to United States Magistrate Judge, the Honorable K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the petition.

On September 1, 2020, Judge Mitchell issued a Report, (Dkt. #15), recommending that Petitioner's federal habeas petition be denied with prejudice. Judge Mitchell further recommended that Petitioner be denied a certificate of appealability *sua sponte*. With respect to Petitioner's civil rights claims, Judge Mitchell recommended that those claims be dismissed with prejudice as well. A copy of this Report was sent to Petitioner at his address with an acknowledgment card. The docket reflects that Petitioner received a copy of the Report on September 9, 2020, (Dkt. #16). However, to date, Petitioner has not filed objections to the Report and has not communicated with the court since July 2019.

Because objections to Judge Mitchell's Report have not been filed, Petitioner is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations

and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The court has reviewed the pleadings in this cause and the Report of the magistrate judge. Upon such review, the court has determined that the Report of the magistrate judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (holding that where no objections to a magistrate judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

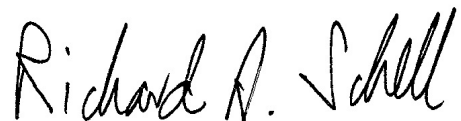
ORDERED that the Report and Recommendation of the United States Magistrate Judge, (Dkt. #15), is **ADOPTED** as the opinion of the court. Further, it is

ORDERED that Petitioner's federal habeas petition is **DENIED** with prejudice. Petitioner is also **DENIED** a certificate of appealability *sua sponte* with respect to his habeas claims. Moreover, it is

ORDERED that Petitioner's civil rights claims—contained in his habeas petition—are hereby **DISMISSED** with prejudice. It is finally

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED** as **MOOT**.

SIGNED this the 20th day of October, 2020.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE